

Calendar No. 269

107TH CONGRESS
1ST SESSION

S. 1624

[Report No. 107–116]

To establish the Office of World Trade Center Attack Claims to pay claims for injury to businesses and property suffered as a result of the attack on the World Trade Center in New York City that occurred on September 11, 2001, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2001

Mrs. CLINTON (for herself and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

DECEMBER 7, 2001

Reported by Mr. JEFFORDS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To establish the Office of World Trade Center Attack Claims to pay claims for injury to businesses and property suffered as a result of the attack on the World Trade Center in New York City that occurred on September 11, 2001, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “World Trade Center
3 Attack Claims Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **AFFECTED AREA.**—The term “affected
7 area” means the area in lower Manhattan, New
8 York City, that is comprised of—

9 (A) the area located south of Chambers
10 Street and west of Broadway; and

11 (B) the area located south of Worth Street
12 and east of Broadway.

13 (2) **ATTACK.**—The term “attack” means the at-
14 tack on the World Trade Center in New York City
15 that occurred on September 11, 2001.

16 (3) **CLAIM.**—The term “claim” means a claim
17 by an injured person under this Act for payment for
18 injury suffered by the injured person as a result of
19 the attack.

20 (4) **CLAIMANT.**—The term “claimant” means
21 an injured person that submits a claim under section
22 4(b).

23 (5) **DIRECTOR.**—The term “Director” means—

24 (A) the Director of the Federal Emergency
25 Management Agency; or

1 ~~(B) if an Independent Claims Manager is~~
 2 ~~appointed under section 3(d)(4), the Inde-~~
 3 ~~pendent Claims Manager.~~

4 ~~(6) INJURED PERSON.—~~

5 ~~(A) IN GENERAL.—The term “injured per-~~
 6 ~~son” means an individual, corporation, partner-~~
 7 ~~ship, company, association, cooperative, joint~~
 8 ~~venture, limited liability company, estate, trust,~~
 9 ~~or nonprofit organization that—~~

10 ~~(i) suffered injury as a result of the~~
 11 ~~attack; and~~

12 ~~(ii) resides or maintains a place of~~
 13 ~~business in the affected area.~~

14 ~~(B) EXCLUSIONS.—The term “injured per-~~
 15 ~~son” does not include—~~

16 ~~(i) a lender that holds a mortgage on~~
 17 ~~or security interest in real or personal~~
 18 ~~property affected by the attack; or~~

19 ~~(ii) a person that holds a lien on real~~
 20 ~~or personal property affected by the at-~~
 21 ~~tack.~~

22 ~~(7) OFFICE.—The term “Office” means the Of-~~
 23 ~~fice of World Trade Center Attack Claims estab-~~
 24 ~~lished by section 3.~~

1 **SEC. 3. OFFICE OF WORLD TRADE CENTER ATTACK**
2 **CLAIMS.**

3 (a) **IN GENERAL.**—There is established within the
4 Federal Emergency Management Agency an office to be
5 known as the “Office of World Trade Center Attack
6 Claims”.

7 (b) **PURPOSE.**—The Office shall receive, process, and
8 pay claims in accordance with section 4.

9 (c) **FUNDING.**—The Office—

10 (1) shall be funded from funds made available
11 under this Act; and

12 (2) may reimburse any other Federal agency
13 for provision of assistance in the receipt and proc-
14 essing of claims.

15 (d) **PERSONNEL.**—

16 (1) **IN GENERAL.**—The Office may appoint and
17 fix the compensation of such temporary personnel as
18 are necessary to carry out the duties of the Office,
19 without regard to the provisions of title 5, United
20 States Code, governing appointments in the competi-
21 tive service.

22 (2) **PERSONNEL FROM OTHER AGENCIES.**—On
23 the request of the Director, the head of any other
24 Federal agency may detail, on a reimbursable basis,
25 any of the personnel of the agency to the Federal
26 Emergency Management Agency to assist the Office

1 in carrying out the duties of the Office under this
2 Act.

3 ~~(3) EFFECT ON OTHER FEMA DUTIES.—~~The es-
4 tablishment of the Office shall not diminish the au-
5 thority of, or funding available to, the Director to
6 carry out the responsibilities of the Federal Emer-
7 gency Management Agency under the Robert T.
8 Stafford Disaster Relief and Emergency Assistance
9 Act ~~(42 U.S.C. 5121 et seq.)~~, including the timely
10 provision of disaster assistance to any area with re-
11 spect to which a major disaster or emergency is de-
12 clared by the President to exist during the period in
13 which the Director carries out this Act.

14 ~~(4) APPOINTMENT OF INDEPENDENT CLAIMS~~
15 ~~MANAGER.—~~The Director may appoint an Inde-
16 pendent Claims Manager to head the Office and to
17 assume the duties of the Director under this Act.

18 **SEC. 4. COMPENSATION FOR VICTIMS OF THE ATTACK.**

19 ~~(a) IN GENERAL.—~~Each injured person shall be enti-
20 tled to receive from the United States compensation for
21 injury suffered by the injured person as a result of the
22 attack, as determined by the Director in accordance with
23 subsection (d).

24 ~~(b) SUBMISSION OF CLAIMS.—~~

1 (1) IN GENERAL.—Not later than 2 years after
 2 the date on which interim final regulations are pro-
 3 mulgated under subsection (1), an injured person
 4 may submit to the Director a written claim for pay-
 5 ment of injury suffered by the injured person as a
 6 result of the attack in accordance with such require-
 7 ments as the Director determines to be appropriate.

8 (2) STATEMENT OF USE OF PAYMENT.—

9 (A) IN GENERAL.—Subject to subpara-
 10 graph (B), an injured person shall include in a
 11 written claim submitted under paragraph (1) a
 12 statement of the purposes for which any pay-
 13 ment on the claim will be used.

14 (B) AUTHORIZED USES.—An injured per-
 15 son may use a payment on a claim only to con-
 16 tinue, repair, replace, start, establish, or locate,
 17 in New York City, a business or residence that
 18 was located, before September 11, 2001, in the
 19 affected area.

20 (c) INVESTIGATION OF CLAIMS.—The Director shall
 21 investigate, adjust, grant, deny, or settle any claim sub-
 22 mitted under subsection (b).

23 (d) AMOUNT OF PAYMENT.—

24 (1) IN GENERAL.—Any payment on a claim by
 25 an injured person—

1 (A) shall be limited to the amount nec-
 2 essary to compensate the injured person for in-
 3 jury described in paragraph (2) suffered as a
 4 result of the attack during the period beginning
 5 on September 11, 2001, and ending on March
 6 11, 2003;

7 (B) shall be subject to subsection
 8 (e)(1)(C);

9 (C) shall not include—

10 (i) interest on the amount of the pay-
 11 ment before the date of settlement or pay-
 12 ment of a claim; or

13 (ii) punitive damages or any other
 14 form of noncompensatory damages; and

15 (D) shall not exceed \$500,000, except in
 16 the case of a claim for which the Director de-
 17 termines that a greater amount is appropriate.

18 (2) TYPES OF INJURY.—

19 IN GENERAL.—Under paragraph (1), sub-
 20 ject to subparagraph (B), an injured person
 21 may receive payment for—

22 (i) an uninsured or underinsured
 23 property loss;

24 (ii) damage to or destruction of phys-
 25 ical infrastructure;

(iii) damage to or destruction of tangible assets or inventory;

(iv) a business interruption loss;

(v) overhead costs;

(vi) employee wages for work not performed;

(vii) an insurance deductible;

(viii) a temporary living or relocation expense; and

(ix) debris removal and other cleanup costs; and

(x) any other type of injury that the Director determines to be appropriate.

(B) LIMITATION ON CERTAIN TYPES OF BUSINESS LOSS.—An injured person may receive payment for a type of injury specified in clause (iv), (v), or (vi) only if the injured person has experienced, as a result of the attack, with respect to a business facility of the person—

(i) disruption in power;

(ii) disruption in telecommunications capacity;

(iii) damage to or destruction of physical infrastructure; or

(iv) disruption in physical access.

1 ~~(3) BURDEN OF PROOF.—~~

2 (A) IN GENERAL.—Subject to subpara-
3 graph (B), a claimant shall have the burden of
4 demonstrating injury suffered by the claimant.

5 (B) ABSENCE OF DOCUMENTS.—If docu-
6 mentary evidence substantiating injury is not
7 reasonably available, the Director may pay a
8 claim based on an affidavit or other documenta-
9 tion executed by the claimant.

10 ~~(4) APPLICABILITY OF STATE LAW.—Except as~~
11 otherwise provided in this section, the law of the
12 State of New York shall apply to the determination
13 of injury under this subsection.

14 ~~(e) PAYMENT OF CLAIMS.—~~

15 ~~(1) DETERMINATION AND PAYMENT OF~~
16 ~~AMOUNT.—~~

17 (A) IN GENERAL.—Not later than 180
18 days after the date on which a claim is sub-
19 mitted under subsection (b), the Director
20 shall—

21 (i) determine the amount, if any, to
22 be paid for the claim; and

23 (ii) pay the amount.

1 ~~(B) PARAMETERS OF DETERMINATION.—~~

2 In determining and paying a claim, the Director
3 shall determine only—

4 (i) whether the claimant is an injured
5 person;

6 (ii) whether the injuries that are the
7 subject of the claim resulted from the at-
8 tack;

9 (iii) the amount, if any, to be paid
10 under this section; and

11 (iv) the person or persons entitled to
12 receive the amount.

13 ~~(C) INSURANCE AND OTHER BENEFITS.—~~

14 (i) ~~IN GENERAL.—~~Subject to clause
15 (ii), to prevent recovery by a claimant in
16 excess of the equivalent of actual compen-
17 satory damages in accordance with sub-
18 section (d), the Director, in determining
19 the amount of, and paying, a claim, shall
20 reduce the amount to be paid for the claim
21 by an amount that is equal to the sum of
22 the payments or settlements of any kind
23 that were paid, or will be paid, with re-
24 spect to the claim, including—

1 (I) payments on insurance poli-
2 cies;

3 (II) benefits under the public as-
4 sistance program, individual assist-
5 ance program, or other program of
6 the Federal Emergency Management
7 Agency or under a program of any
8 other Federal, State, or local agency;
9 and

10 (III) financial assistance provided
11 by a charitable or other nonprofit,
12 nongovernmental organization.

13 (ii) GOVERNMENT LOANS.—Clause (i)
14 shall not apply to the receipt by a claimant
15 of any Federal, State, or local government
16 loan that is required to be repaid by the
17 claimant.

18 (2) ADVANCE AND PARTIAL PAYMENTS.—

19 (A) IN GENERAL.—At the request of a
20 claimant, the Director may make 1 or more ad-
21 vance or partial payments before the final set-
22 tlement of a claim, including final settlement on
23 any portion of a claim that is determined to be
24 severable.

1 ~~(B) JUDICIAL DECISION.—~~If a claimant re-
 2 ceives a partial payment on a claim, but the Di-
 3 rector denies any further payment on the claim,
 4 the claimant may—

5 (i) seek judicial review under sub-
 6 section (j); and

7 (ii) retain any partial payment that
 8 the claimant received, unless the Director
 9 determines that the claimant—

10 ~~(I)~~ was not eligible to receive the
 11 partial payment; or

12 ~~(II)~~ fraudulently obtained the
 13 partial payment.

14 ~~(f) ACCEPTANCE OF PAYMENTS ON CLAIMS.—~~The
 15 acceptance by a claimant of a payment on a claim under
 16 this section, except an advance or partial payment under
 17 subsection (e)(2), shall—

18 ~~(1)~~ be final and conclusive on the claimant with
 19 respect to all claims arising out of or relating to the
 20 same subject matter;

21 ~~(2)~~ subject to subsection (h), be final and con-
 22 clusive on the United States; and

23 ~~(3)~~ include a certification by the claimant,
 24 made under penalty of perjury and subject to section

1 ~~1001~~ of title 18, United States Code, that the claim
 2 of the claimant is true and correct.

3 ~~(g) USE OF PAYMENTS ON CLAIMS.—An injured per-~~
 4 son may use a payment on a claim only for the purposes
 5 stated in the statement submitted under subsection (b)(2).

6 ~~(h) RECOVERY OF FUNDS IMPROPERLY PAID OR~~
 7 MISUSED.—The United States may recover any portion
 8 of a payment on a claim that—

9 ~~(1) was improperly paid to the claimant as a re-~~
 10 sult of—

11 ~~(A) fraud or misrepresentation on the part~~
 12 of the claimant or a representative of the claim-
 13 ant;

14 ~~(B) a material mistake on the part of the~~
 15 United States;

16 ~~(C) the payment of benefits described in~~
 17 subsection (e)(1)(C) that were not taken into
 18 account in determining the amount of the pay-
 19 ment; or

20 ~~(D) the failure of the claimant to cooperate~~
 21 in an audit; or

22 ~~(2) is used by the claimant in violation of sub-~~
 23 section (g).

24 ~~(i) ARBITRATION.—~~

1 (1) IN GENERAL.—Not later than 45 days after
 2 the date of enactment of this Act, the Director shall
 3 establish by regulation procedures under which a
 4 dispute concerning a claim may be settled by arbi-
 5 tration.

6 (2) ARBITRATION AS REMEDY.—On establish-
 7 ment of arbitration procedures under paragraph (1),
 8 an injured person that submits a claim that is dis-
 9 puted may elect to settle the claim through arbitra-
 10 tion.

11 (3) BINDING EFFECT.—An election by an in-
 12 jured person to settle a claim through arbitration
 13 under this subsection shall—

14 (A) be binding; and

15 (B) preclude any exercise by the injured
 16 person of the right to judicial review of a claim
 17 under subsection (j).

18 (j) JUDICIAL REVIEW.—

19 (1) IN GENERAL.—A claimant aggrieved by a
 20 final decision of the Director under this section may
 21 bring, not later than 60 days after the date on which
 22 the decision is issued, a civil action in the United
 23 States District Court for the Southern District of
 24 New York to modify or set aside the decision, in
 25 whole or in part.

1 (2) RECORD.—The court shall hear a civil ac-
 2 tion under paragraph (1) on the record made before
 3 the Director.

4 (3) STANDARD OF REVIEW.—The court shall
 5 uphold the decision of the Director if the decision is
 6 supported by substantial evidence on the record as
 7 a whole.

8 (k) ATTORNEY'S AND AGENT'S FEES.—

9 (1) IN GENERAL.—No attorney or agent, acting
 10 alone or in combination with any other attorney or
 11 agent, shall charge or accept, for services rendered
 12 in connection with a claim, a fee in excess of 10 per-
 13 cent of the amount of any payment on the claim.

14 (2) PENALTY FOR VIOLATION.—An attorney or
 15 agent who violates paragraph (1) shall be subject to
 16 a civil penalty of not more than \$10,000.

17 (l) REGULATIONS.—Notwithstanding any other pro-
 18 vision of law, not later than 45 days after the date of en-
 19 actment of this Act, the Director shall promulgate and
 20 publish in the Federal Register interim final regulations
 21 for the processing and payment of claims.

22 (m) PUBLIC INFORMATION.—

23 (1) IN GENERAL.—At the time of publication of
 24 interim final regulations under subsection (l), the
 25 Director shall publish, in newspapers of general cir-

1 culation in New York City, a clear, concise, and eas-
 2 ily understandable explanation, in English and
 3 Spanish, of—

4 (A) the rights conferred under this section;
 5 and

6 (B) the procedural and other requirements
 7 of the regulations promulgated under subsection
 8 (1).

9 ~~(2) DISSEMINATION THROUGH OTHER MEDIA.—~~

10 The Director shall disseminate the explanation pub-
 11 lished under paragraph (1) through brochures, pam-
 12 phlets, radio, television, and such other media as the
 13 Director determines to be likely to reach prospective
 14 claimants.

15 ~~(n) COORDINATION.—~~In carrying out this section, the
 16 Director shall coordinate with the Administrator of the
 17 Small Business Administration, other Federal agencies,
 18 and State and local agencies, as the Director determines
 19 to be necessary—

20 (1) to ensure the efficient administration of the
 21 claims process; and

22 (2) to provide for local concerns.

23 ~~(o) APPLICABILITY OF DEBT COLLECTION REQUIRE-~~
 24 ~~MENTS.—~~Section 3716 of title 31, United States Code,
 25 shall not apply to any payment on a claim.

1 **SEC. 5. RELATIONSHIP TO FEDERAL ENTITLEMENT PRO-**
2 **GRAMS.**

3 Nothing in this Act affects any right of an injured
4 person that submits a claim to submit a request for bene-
5 fits under any Federal entitlement program.

6 **SEC. 6. REPORTS AND AUDITS.**

7 (a) **REPORTS.**—Not later than 1 year after the date
8 of promulgation of interim final regulations under section
9 4(l) and annually thereafter, the Director shall submit to
10 Congress a report that describes the claims submitted
11 under section 4(b) during the year preceding the date of
12 submission of the report, including, with respect to each
13 claim—

14 (1) the amount claimed;

15 (2) a brief description of the nature of the
16 claim; and

17 (3) the status or disposition of the claim, in-
18 cluding the amount of any payment on the claim.

19 (b) **AUDITS.**—The Comptroller General shall—

20 (1) conduct an annual audit of the payment of
21 all claims submitted under section 4(b); and

22 (2) not later than 1 year after the date of en-
23 actment of this Act and annually thereafter, report
24 to Congress on the results of the audit.

1 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

2 ~~(a) IN GENERAL.—There is authorized to be appro-~~
 3 ~~riated to carry out this Act \$2,000,000,000, to remain~~
 4 ~~available until expended.~~

5 ~~(b) FEMA FUNDS.—None of the funds made avail-~~
 6 ~~able to the Federal Emergency Management Agency for~~
 7 ~~the administration of disaster relief shall be used to carry~~
 8 ~~out this Act.~~

9 **SEC. 8. TERMINATION OF AUTHORITY.**

10 The authority provided by this Act terminates effec-
 11 ~~tive 42 months after the date of enactment of this Act.~~

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “World Trade Center At-*
 14 *tack Claims Act”.*

15 **SEC. 2. FINDINGS AND PURPOSES.**

16 ~~(a) FINDINGS.—Congress finds that—~~

17 ~~(1) on September 11, 2001, an unprecedented~~
 18 ~~terrorist attack was perpetrated against the United~~
 19 ~~States on American soil;~~

20 ~~(2) 1 of the targets of that terrorist attack was~~
 21 ~~the World Trade Center in New York City;~~

22 ~~(3) the attack on the World Trade Center re-~~
 23 ~~sulted in the loss of thousands of lives, and the dam-~~
 24 ~~age or destruction of a 16-acre area in lower Manhat-~~
 25 ~~tan, including thousands of homes and businesses;~~

1 (4) *more than 1,000,000 tons of rubble must be*
2 *removed from the attack site;*

3 (5) *nearly 25,000,000 square feet of office space,*
4 *equivalent to 20 percent of all office space in down-*
5 *town New York, was damaged or destroyed by the at-*
6 *tack;*

7 (6) *approximately 850 businesses and over*
8 *125,000 workers were physically displaced as a result*
9 *of the attack;*

10 (7) *more than an additional 9,000 businesses*
11 *employing over 145,000 people have been affected as*
12 *a result of restrictions on access resulting from the at-*
13 *tack;*

14 (8) *many of those businesses are on the verge of*
15 *bankruptcy because the businesses remain unable to*
16 *gain access to their property or are temporarily un-*
17 *able to receive foot or vehicular traffic;*

18 (9) *it is estimated that the attack will cost New*
19 *York City and businesses in the city over*
20 *\$105,000,000,000 in financial losses over the next 2*
21 *years; and*

22 (10) *certain victims of the attack are in need of*
23 *compensation for certain business and residential*
24 *losses resulting directly from the attack.*

25 (b) *PURPOSES.—The purposes of this Act are—*

1 (1) *to compensate certain victims of the terrorist*
 2 *attack on the World Trade Center in New York City*
 3 *for certain business and residential losses resulting*
 4 *directly from the attack;*

5 (2) *to provide for the expeditious consideration*
 6 *and payment of claims for those losses; and*

7 (3) *to assist victims of the attack to continue, re-*
 8 *pair, replace, start, establish, or locate a business or*
 9 *residence in New York City that was located in the*
 10 *affected area before September 11, 2001.*

11 **SEC. 3. DEFINITIONS.**

12 *In this Act:*

13 (1) *AFFECTED AREA.*—*The term “affected area”*
 14 *means the area in lower Manhattan, New York City,*
 15 *that is comprised of the area located on or south of*
 16 *Canal Street, on or south of East Broadway (east of*
 17 *its intersection with Canal Street), or on or south of*
 18 *Grand Street (east of its intersection with East*
 19 *Broadway).*

20 (2) *ATTACK.*—*The term “attack” means the at-*
 21 *tack on the World Trade Center in New York City*
 22 *that occurred on September 11, 2001.*

23 (3) *CLAIM.*—*The term “claim” means a claim by*
 24 *an injured person under this Act for payment for in-*

1 jury suffered by the injured person as a result of the
2 attack.

3 (4) *CLAIMANT*.—The term “claimant” means an
4 injured person that submits a claim under section
5 5(b).

6 (5) *DIRECTOR*.—The term “Director” means—

7 (A) the Director of the Federal Emergency
8 Management Agency; or

9 (B) if an Independent Claims Manager is
10 appointed under section 4(d)(4), the Independent
11 Claims Manager.

12 (6) *INJURED PERSON*.—

13 (A) *IN GENERAL*.—The term “injured per-
14 son” means an individual, corporation, partner-
15 ship, company, association, cooperative, joint
16 venture, limited liability company, estate, trust,
17 or nonprofit organization that—

18 (i) suffered injury as a result of the at-
19 tack; and

20 (ii) resides or maintains a place of
21 business in the affected area.

22 (B) *EXCLUSIONS*.—The term “injured per-
23 son” does not include—

1 (i) a lender that holds a mortgage on
2 or security interest in real or personal
3 property affected by the attack; or

4 (ii) a person that holds a lien on real
5 or personal property affected by the attack.

6 (7) *OFFICE*.—The term “Office” means the Office
7 of World Trade Center Attack Claims established by
8 section 4.

9 **SEC. 4. OFFICE OF WORLD TRADE CENTER ATTACK CLAIMS.**

10 (a) *IN GENERAL*.—There is established within the Fed-
11 eral Emergency Management Agency an office to be known
12 as the “Office of World Trade Center Attack Claims”.

13 (b) *PURPOSE*.—The Office shall receive, process, and
14 pay claims in accordance with section 5.

15 (c) *FUNDING*.—The Office—

16 (1) shall be funded from funds made available
17 under this Act; and

18 (2) may reimburse any other Federal agency for
19 provision of assistance in the receipt and processing
20 of claims.

21 (d) *PERSONNEL*.—

22 (1) *IN GENERAL*.—The Office may appoint and
23 fix the compensation of such temporary personnel as
24 are necessary to carry out the duties of the Office,
25 without regard to the provisions of title 5, United

1 *States Code, governing appointments in the competi-*
2 *tive service.*

3 (2) *PERSONNEL FROM OTHER AGENCIES.—On*
4 *the request of the Director, the head of any other Fed-*
5 *eral agency may detail, on a reimbursable basis, any*
6 *of the personnel of the agency to the Federal Emer-*
7 *gency Management Agency to assist the Office in car-*
8 *rying out the duties of the Office under this Act.*

9 (3) *EFFECT ON OTHER FEMA DUTIES.—The es-*
10 *tablishment of the Office shall not diminish the au-*
11 *thority of, or funding available to, the Director to*
12 *carry out the responsibilities of the Federal Emer-*
13 *gency Management Agency under the Robert T. Staf-*
14 *ford Disaster Relief and Emergency Assistance Act*
15 *(42 U.S.C. 5121 et seq.), including the timely provi-*
16 *sion of disaster assistance to any area with respect to*
17 *which a major disaster or emergency is declared by*
18 *the President to exist during the period in which the*
19 *Director carries out this Act.*

20 (4) *APPOINTMENT OF INDEPENDENT CLAIMS*
21 *MANAGER.—The Director may appoint an Inde-*
22 *pendent Claims Manager to head the Office and to as-*
23 *sume the duties of the Director under this Act.*

1 **SEC. 5. COMPENSATION FOR VICTIMS OF THE ATTACK.**

2 (a) *IN GENERAL.*—Each injured person may receive
3 from the United States compensation for injury suffered by
4 the injured person as a result of the attack, as determined
5 by the Director in accordance with subsection (d).

6 (b) *SUBMISSION OF CLAIMS.*—Not later than 2 years
7 after the date on which interim final regulations are pro-
8 mulgated under subsection (i), an injured person may sub-
9 mit to the Director a written claim for payment of injury
10 suffered by the injured person as a result of the attack in
11 accordance with such requirements as the Director deter-
12 mines to be appropriate.

13 (c) *INVESTIGATION OF CLAIMS.*—The Director shall in-
14 vestigate, adjust, grant, deny, settle, or compromise any
15 claim submitted under subsection (b).

16 (d) *AMOUNT OF PAYMENT.*—

17 (1) *IN GENERAL.*—Any payment on a claim by
18 an injured person—

19 (A) shall be limited to the amount necessary
20 to compensate the injured person for injury de-
21 scribed in paragraph (2) suffered as a result of
22 the attack during the period beginning on Sep-
23 tember 11, 2001, and ending on March 11, 2003;

24 (B) shall be subject to subsection (e)(1)(D);

25 (C) shall not include—

1 (i) interest on the amount of the pay-
 2 ment before the date of settlement or pay-
 3 ment of a claim; or

4 (ii) punitive damages or any other
 5 form of noncompensatory damages; and

6 (D) shall not exceed \$500,000, except in the
 7 case of a claim for which the Director determines
 8 that a greater amount is appropriate.

9 (2) TYPES OF INJURY.—

10 (A) RESIDENTIAL LOSS.—Under paragraph
 11 (1), an injured person may receive payment for
 12 a residential loss consisting of 1 or more of the
 13 following:

14 (i) An uninsured or underinsured
 15 property loss.

16 (ii) Damage to or destruction of phys-
 17 ical infrastructure.

18 (iii) An insurance deductible.

19 (iv) A temporary living or relocation
 20 expense.

21 (v) Debris removal and other cleanup
 22 costs.

23 (vi) Any other type of related injury
 24 that the Director determines to be appro-
 25 priate.

1 (B) *BUSINESS LOSS.*—

2 (i) *IN GENERAL.*—Under paragraph
3 (1), an injured person may receive payment
4 for a business loss consisting of 1 or more
5 of the following:

6 (I) *An uninsured or underinsured*
7 *property loss.*

8 (II) *Damage to or destruction of*
9 *physical infrastructure.*

10 (III) *Damage to or destruction of*
11 *tangible assets or inventory.*

12 (IV) *A business interruption loss.*

13 (V) *Overhead costs.*

14 (VI) *Employee wages for work not*
15 *performed.*

16 (VII) *An insurance deductible.*

17 (VIII) *A temporary relocation ex-*
18 *pense.*

19 (IX) *Debris removal and other*
20 *cleanup costs.*

21 (X) *Any other type of injury that*
22 *the Director determines to be appro-*
23 *priate.*

24 (ii) *LIMITATION ON BUSINESS LOSS.*—
25 *An injured person may receive payment for*

1 a business loss under clause (i) only if the
 2 injured person has experienced, as a result
 3 of the attack, with respect to a business fa-
 4 cility of the injured person—

5 (I) disruption in power;

6 (II) disruption in telecommuni-
 7 cations capacity;

8 (III) damage to or destruction of
 9 physical infrastructure; or

10 (IV) disruption in physical access
 11 by employees or customers to the busi-
 12 ness facility of the injured person.

13 (3) *BURDEN OF PROOF.*—

14 (A) *IN GENERAL.*—Subject to subparagraph
 15 (B), a claimant shall have the burden of dem-
 16 onstrating injury suffered by the claimant.

17 (B) *ABSENCE OF DOCUMENTS.*—If docu-
 18 mentary evidence substantiating injury is not
 19 reasonably available, the Director may pay a
 20 claim based on an affidavit or other documenta-
 21 tion executed by the claimant.

22 (e) *PAYMENT OF CLAIMS.*—

23 (1) *DETERMINATION AND PAYMENT OF*
 24 *AMOUNT.*—

1 (A) *IN GENERAL.*—*To the maximum extent*
 2 *practicable, not later than 180 days after the*
 3 *date on which a claim is submitted under sub-*
 4 *section (b), the Director shall—*

5 *(i) determine the amount, if any, to be*
 6 *paid for the claim; and*

7 *(ii) pay the amount.*

8 (B) *PRIORITY.*—*The Director may establish*
 9 *priorities for processing and paying claims*
 10 *based on—*

11 *(i) an assessment of the needs of the*
 12 *claimants; and*

13 *(ii) any other criteria that the Director*
 14 *determines to be appropriate.*

15 (C) *PARAMETERS OF DETERMINATION.*—*In*
 16 *determining and paying a claim, the Director*
 17 *shall determine only—*

18 *(i) whether the claimant is an injured*
 19 *person;*

20 *(ii) whether the injuries that are the*
 21 *subject of the claim resulted from the attack;*

22 *(iii) the amount, if any, to be paid*
 23 *under this section; and*

24 *(iv) the person or persons entitled to*
 25 *receive the amount.*

1 (D) *INSURANCE AND OTHER BENEFITS.*—

2 (i) *IN GENERAL.*—Subject to clause
 3 (ii), to prevent recovery by a claimant in
 4 excess of the equivalent of actual compen-
 5 satory damages in accordance with sub-
 6 section (d), the Director, in determining the
 7 amount of, and paying, a claim, shall re-
 8 duce the amount to be paid for the claim by
 9 an amount that is equal to the sum of the
 10 payments or settlements of any kind that
 11 were paid, or will be paid, with respect to
 12 the claim, including—

13 (I) *payments on insurance poli-*
 14 cies; and

15 (II) *benefits under the public as-*
 16 sistance program, individual assist-
 17 ance program, or other program of the
 18 Federal Emergency Management Agen-
 19 cy or under a program of any other
 20 Federal, State, or local agency.

21 (ii) *GOVERNMENT LOANS.*—Clause (i)
 22 shall not apply to the receipt by a claimant
 23 of any Federal, State, or local government
 24 loan that is required to be repaid by the
 25 claimant.

1 (2) *ADVANCE OR PARTIAL PAYMENTS.*—*At the re-*
 2 *quest of a claimant, the Director may make 1 or more*
 3 *advance or partial payments before the final settle-*
 4 *ment of a claim.*

5 (f) *RECOVERY OF FUNDS IMPROPERLY PAID OR MIS-*
 6 *USED.*—*The United States may recover any portion of a*
 7 *payment on a claim that was improperly paid to the claim-*
 8 *ant as a result of—*

9 (1) *fraud or misrepresentation on the part of the*
 10 *claimant or a representative of the claimant;*

11 (2) *a material mistake on the part of the United*
 12 *States;*

13 (3) *the payment of benefits described in sub-*
 14 *section (e)(1)(D) that were not taken into account in*
 15 *determining the amount of the payment; or*

16 (4) *the failure of the claimant to cooperate in an*
 17 *audit.*

18 (g) *APPEALS OF DECISIONS.*—

19 (1) *RIGHT OF APPEAL.*—*A claimant may appeal*
 20 *a decision concerning payment of a claim by filing,*
 21 *not later than 60 days after the date on which the*
 22 *claimant is notified that the claim of the claimant*
 23 *will or will not be paid, a notice of appeal—*

1 (A) *in the case of a decision on a claim re-*
 2 *lating to a business loss, with the Administrator*
 3 *of the Small Business Administration; and*

4 (B) *in the case of a decision on a claim re-*
 5 *lating to a residential loss, with the Director.*

6 (2) *PERIOD FOR DECISION.*—*A decision con-*
 7 *cerning an appeal under paragraph (1) shall be ren-*
 8 *dered not later than 90 days after the date on which*
 9 *the notice of appeal is received.*

10 (h) *ATTORNEY’S AND AGENT’S FEES.*—

11 (1) *IN GENERAL.*—*No attorney or agent, acting*
 12 *alone or in combination with any other attorney or*
 13 *agent, shall charge or accept, for services rendered in*
 14 *connection with a claim, a fee in excess of 10 percent*
 15 *of the amount of any payment on the claim.*

16 (2) *PENALTY FOR VIOLATION.*—*An attorney or*
 17 *agent who violates paragraph (1) shall be subject to*
 18 *a civil penalty of not more than \$10,000.*

19 (i) *REGULATIONS.*—*Notwithstanding any other provi-*
 20 *sion of law, not later than 45 days after the date of enact-*
 21 *ment of this Act—*

22 (1) *the Director shall promulgate and publish in*
 23 *the Federal Register interim final regulations for the*
 24 *processing and payment of claims; and*

1 (2) *the Director and the Administrator of the*
 2 *Small Business Administration shall jointly promul-*
 3 *gate and publish in the Federal Register procedures*
 4 *under which a dispute concerning payment of a claim*
 5 *may be settled through an appeals process described*
 6 *in subsection (g).*

7 (j) *PUBLIC INFORMATION.—At the time of publication*
 8 *of interim final regulations under subsection (i), the Direc-*
 9 *tor shall disseminate, through brochures, pamphlets, radio,*
 10 *television, the print news media, and such other media as*
 11 *the Director determines to be likely to reach prospective*
 12 *claimants, a clear, concise, and easily understandable ex-*
 13 *planation, in English, Spanish, and any other language*
 14 *that the Director determines to be appropriate, of—*

15 (1) *the rights conferred under this section; and*
 16 (2) *the procedural and other requirements of the*
 17 *regulations promulgated under subsection (i).*

18 (k) *COORDINATION.—In carrying out this section, the*
 19 *Director shall coordinate with the Administrator of the*
 20 *Small Business Administration, other Federal agencies,*
 21 *State and local agencies, and any other individual or enti-*
 22 *ty, as the Director determines to be necessary—*

23 (1) *to ensure the efficient administration of the*
 24 *claims process; and*

25 (2) *to provide for local concerns.*

1 *(l) APPLICABILITY OF DEBT COLLECTION REQUIRE-*
 2 *MENTS.—*

3 *(1) IN GENERAL.—Section 3716 of title 31,*
 4 *United States Code, shall not preclude any payment*
 5 *on a claim.*

6 *(2) ASSIGNMENT AND EXEMPTION FROM CLAIMS*
 7 *OF CREDITORS.—*

8 *(A) ASSIGNMENT.—No assignment, release,*
 9 *or commutation of a payment due or payable*
 10 *under this section shall be valid.*

11 *(B) EXEMPTION.—*

12 *(i) IN GENERAL.—A payment under*
 13 *this section shall be exempt from all claims*
 14 *of creditors and from levy, execution, at-*
 15 *tachment, or other remedy for recovery or*
 16 *collection of a debt.*

17 *(ii) NONWAIVABLE EXEMPTION.—The*
 18 *exemption provided by clause (i) may not*
 19 *be waived.*

20 *(3) EXCEPTION.—Notwithstanding paragraph*
 21 *(2), the Director may—*

22 *(A) require the repayment, using a payment*
 23 *under this section, of any disaster loan made by*
 24 *the Small Business Administration to address*
 25 *injury suffered as a result of the attack; and*

1 (B) use the remedies provided by subchapter
 2 II of chapter 37 of title 31, United States Code,
 3 in collecting debts due to the Federal Govern-
 4 ment that arise from this Act.

5 **SEC. 6. ACCEPTANCE OF SERVICES OF OTHER AGENCIES**
 6 **AND VOLUNTEERS; GIFTS.**

7 In carrying out this Act, the Director may—

8 (1) accept and use the services or facilities of
 9 any State or local government, or of any agency, of-
 10 fice, or employee of any State or local government,
 11 with the consent of the government;

12 (2) use such voluntary and uncompensated serv-
 13 ices by individuals or organizations as may be need-
 14 ed; and

15 (3) accept gifts of supplies, equipment, and fa-
 16 cilities to be used in carrying out this Act.

17 **SEC. 7. RELATIONSHIP TO FEDERAL ENTITLEMENT PRO-**
 18 **GRAMS.**

19 (a) *REQUESTS FOR BENEFITS.*—Nothing in this Act
 20 affects any right of an injured person that submits a claim
 21 to submit a request for benefits under any Federal entitle-
 22 ment program.

23 (b) *CONSIDERATION OF PAYMENTS AS RESOURCES.*—
 24 A payment on a claim received by an injured person under
 25 section 5 shall not be taken into account in determining

1 *the assets or resources of any individual or household under*
 2 *any Federal program or federally assisted program that*
 3 *provides financial aid, assistance, or benefits based on need,*
 4 *including—*

5 (1) *the food stamp program under the Food*
 6 *Stamp Act of 1977 (7 U.S.C. 2011 et seq.); and*

7 (2) *any program established under the Social Se-*
 8 *curity Act (42 U.S.C. 301 et seq.).*

9 **SEC. 8. REPORTS AND AUDITS.**

10 (a) *REPORTS.*—*Not later than 1 year after the date*
 11 *of promulgation of interim final regulations under section*
 12 *5(i) and annually thereafter, the Director shall submit to*
 13 *Congress a report that describes the claims submitted under*
 14 *section 5(b) during the year preceding the date of submis-*
 15 *sion of the report, including, with respect to each claim—*

16 (1) *the amount claimed;*

17 (2) *a brief description of the nature of the claim;*

18 *and*

19 (3) *the status or disposition of the claim, includ-*
 20 *ing the amount of any payment on the claim.*

21 (b) *AUDITS.*—*The Comptroller General shall—*

22 (1) *conduct an annual audit of the payment of*
 23 *all claims submitted under section 5(b); and*

24 (2) *not later than 120 days after the date on*
 25 *which the Director submits to Congress the initial re-*

1 *port required by subsection (a) and annually there-*
 2 *after, submit to Congress a report on the results of the*
 3 *audit.*

4 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

5 *(a) IN GENERAL.—There are authorized to be appro-*
 6 *priated to carry out this Act—*

7 *(1) for administration by the Office of the com-*
 8 *pensation process \$100,000,000; and*

9 *(2) for payment of claims \$1,900,000,000.*

10 *(b) AVAILABILITY.—Amounts made available under*
 11 *subsection (a) shall remain available until expended.*

12 *(c) FEMA FUNDS.—None of the funds made available*
 13 *to the Federal Emergency Management Agency for the ad-*
 14 *ministration of disaster relief shall be used to carry out this*
 15 *Act.*

16 **SEC. 10. TERMINATION OF AUTHORITY.**

17 *The authority provided by this Act terminates effective*
 18 *42 months after the date of enactment of this Act.*

Calendar No. 269

107TH CONGRESS
1ST SESSION

S. 1624

[Report No. 107–116]

A BILL

To establish the Office of World Trade Center Attack Claims to pay claims for injury to businesses and property suffered as a result of the attack on the World Trade Center in New York City that occurred on September 11, 2001, and for other purposes.

DECEMBER 7, 2001

Reported with an amendment